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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/625,447  | 07/23/2003  | Gaurav Mittal        | 004770.00491        | 7966             |
| 22907   | 7590        | 01/31/2006           | EXAMINER            |                  |
| BANNER & WITCOFF<br>1001 G STREET N W<br>SUITE 1100<br>WASHINGTON, DC 20001 |             |                      | WU, QING YUAN       |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2194                |                  |

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |                |  |
|------------------------------|-----------------|----------------|--|
| <b>Office Action Summary</b> | Application No. | Applicant(s)   |  |
|                              | 10/625,447      | MITTAL, GAURAV |  |
|                              | Examiner        | Art Unit       |  |
|                              | Qing-Yuan Wu    | 2194           |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.


### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received

  
**WILLIAM THOMSON**  
**SUPERVISORY PATENT EXAMINER**

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/12/05</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Claims 1-12 and 15-21 are pending in the application.

***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 10/12/05 mirrors the notice of references (pto-892) cited by the examiner on 7/12/05. Accordingly, the references cited were considered by the examiner.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 8-12 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The following claim language is indefinite:

- i. As per claim 8, it is uncertain if “a client device” in line 6 refers to “a client device” in line 3 and “the client device” in line 4 (i.e. if they are the same then said/the should be used and “the client device” should be used throughout all the dependent claims).

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent 5,999,740), in view of Applicant Admitted Prior Art (hereafter AAPA).

7. Rowley was cited in the last office action.

8. As to claim 1, Rowley teaches the invention substantially as claimed including a method for facilitating the downloading of an application from at least one server computer to a client device, the method comprising steps of:

receiving from said client device an initiation request for information describing available applications, responsive to said initiation request, retrieving for each available application information describing said respective application and transmitting said application information to said client device [Rowley, abstract, lines 3-6; col. 3, lines 6-10; col. 5, lines 23-28; 301, Fig. 3].

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9. Rowley does not specifically teach retrieving/transmitting a link to an application descriptor for said respective application to said client device. However, Rowley disclosed a display interface display recent versions of an application available [303, Fig. 3; col. 5, lines 42-46] mechanism for selection of application upgrades and mechanism to communicate the retrieval of the manifest files [Rowley, col. 5, line 35-col. 6, line 21]. In addition, AAPA teach using a browser to download an application descriptor from a server to a client device [AAPA, pg. 1, line 28-pg. 2, line 3].

10. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have recognized the presence of a connection to the manifest files in order to access the manifest files as being considered by Rowley and to have combined the teaching of Rowley with the teaching of AAPA to further enhance the teaching of AAPA by providing a direct, user-friendly and efficient mechanism of downloading applications or application updates [Rowley, col. 1, lines 14-21].

11. As to claim 3, Rowley as modified teaches the invention substantially as claimed including receiving from said client device a request for an application descriptor, transmitting said application descriptor to said client device [AAPA, pg. 1, line 28-pg. 2, line 3; Rowley, col. 5, lines 62-65], receiving from said client device a request to download a selected application, retrieving said selected application, and transmitting said selected application to said client device [AAPA, pg. 2, lines 3-10; Rowley, col. 5, line 66-col. 6, line 8].

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12. As to claim 4, Rowley as modified teaches the invention substantially as claimed including wherein said client device is one of a computer, a handheld device, a personal digital assistant (PDA), and a wireless mobile telephone [Rowley, col. 2, line 2; AAPA, pg. 1, lines 4-17 and pg. 3, line 11].

13. As to claim 5, Rowley as modified teaches the invention substantially as claimed including wherein said at least one server computer comprises at least one of a network server and an application server [Rowley, col. 2, lines 1-3; AAPA, pg. 1, lines 4-7].

14. Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley and AAPA as applied to claim 1 above, further in view of Boucher et al (hereafter Boucher) (U.S. Patent 6,910,047).

15. Boucher was cited in the last office action.

16. As to claim 2, Rowley and AAPA teach the invention substantially as claim including receiving from said client device a request for an application descriptor, and transmitting said application descriptor to said client device [AAPA, pg. 2, lines 1-3].

17. Rowley and AAPA do not specifically teach said request comprising a link to said application descriptor. However, Rowley disclosed mechanism for selection of application upgrades and mechanism to communicate the retrieval of the manifest files [Rowley, col. 5, line

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35-col. 6, line 21]. In addition, Boucher teaches providing a request containing a URL to the desired information [Boucher, col. 4, lines 8-10]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have combined the teaching of Rowley, AAPA and Boucher because the teaching of Boucher would further improved the direct, user-friendly and efficient mechanism of downloading applications or application updates by providing a server with a location of the information requested [Rowley, col. 1, lines 14-21].

18. As to claim 7, this claim is rejected for the same reason as claim 2 above.

19. Claims 6, 8, 10-12, 15-16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley and AAPA as applied to claim 1 above, further in view of Ims et al (hereafter Ims) (U.S. Patent 6,665,867).

20. Ims was cited in the last office action.

21. As to claim 6, Rowley and AAPA do not specifically teach wherein said at least one server computer comprises at least one application server coupled to said client device via at least one network server. However, Rowley disclosed a number of server computers interconnected by a network [Rowley, col. 2, lines 1-3]. In addition, Ims teaches a gateway directly or indirectly coupled to one or more workstations, and servers such as gateway and application server may be coupled to other servers [Ims, col. 7, lines 35-40]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have

combined the teaching of Rowley, AAPA and Ims because the teaching of Ims enhanced the teaching of Rowley and AAPA by providing an abstraction between a client device and a backend server (i.e. application server).

22. As to claim 8, this claim is rejected for the same reason as claims 1 and 6 above.

23. As to claim 10, Rowley, AAPA and Ims teach the invention substantially as claim including determining from said application descriptor whether said selected application is suitable for downloading to said client device, and upon a determination that said selected application is suitable for downloading to said client device, downloading said selected application [AAPA, pg. 2, lines 3-5; Rowley, col. 5, line 66-col. 6, line 8].

24. As to claim 11, this claim is rejected for the same reason as claim 4 above.

25. As to claim 12, this claim is rejected for the same reason as claims 7 and 8 above.

26. As to claim 15, Rowley, AAPA and Ims teach the invention substantially as claim including wherein said content/application download model (CADM) is one of Java-AMS, BREW, and CoD [AAPA, pg. 1, lines 22-27].

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27. As to claim 16, Rowley, AAPA and Ims teach substantially the method for facilitating the downloading of an application from at least one server computer to a client device. Therefore Rowley, AAPA and Ims teach the system for implementing the method.

28. As to claims 18-20, these claims are rejected for the same reason as claims 4-6 above.

29. Claims 9, 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley, AAPA and Ims as applied to claims 8 and 16 above, further in view of Boucher.

30. As to claim 9, this claim is rejected for the same reason as claims 1-3, and 8 above. In addition, AAPA teaches a content/application download model [AAPA, pg. 1, line 24]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have combined the teaching of Rowley, AAPA, Ims and Boucher because the teaching of Boucher would further improved the direct and efficient mechanism of downloading applications or application updates by providing the server with a location of the information requested. Furthermore, Rowley, AAPA and Ims do not specifically teach displaying said selected application. However, AAPA disclosed download the application from the server for use by the user [AAPA, pg. 2, lines 8-10]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have recognized that the used for an application would include displaying the application.

31. As to claim 17, this claim is rejected for the same reason as claims 2 and 9 above.

32. As to claim 21, this claim is rejected for the same reason as claims 7 and 16 above.

*Response to Arguments*

33. Applicant's arguments filed 11/14/05 have been fully considered but they are not persuasive.

34. In the remarks, Applicant argued in substance that:

- a. 1) There is no suggestion or motivation in Rowley or AAPA to modify or combine these references.
- 2) There is no suggestion or motivation in Rowley, AAPA and Ims to modify or combine these references.
- b. Rowley does not disclose or suggest wireless downloading of applications to computing devices having memory and processing constraints.
- c. Rowley, AAPA, nor Ims disclose, teach, or suggest the claimed feature of “generating by a client device an initiation request for information describing available applications and for a link to an application descriptor...”

35. Examiner respectfully traversed Applicant's remarks:

36. As to points (a1-a2), the examiner has edited the mapping of claim 1 and further clarifies

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the motivation to combine the teachings of Rowley, AAPA and Ims. Please refer to paragraph 9 above.

37. As to point (b), Applicant's claimed invention does not support applicant's arguments. Claimed subject matter, not the specification, is the measure of invention. Limitations in the specification cannot be read into the claims for the purpose of avoiding the prior art. If Applicant believes the limitation is important feature of the invention, it should be incorporated into the claims for further consideration. In re Self, 213 USPQ 1,5 (CCPA 1982); In re Priest, 199 USPQ 11,15 (CCPA 1978). More specifically, independent claim 1 merely recites "wireless browser independent downloading of an application" (i.e. browser independent is defined as not confined to a specific version of a browser) and provides no indication of "computing devices having memory and processing constraints." In addition, the recitation of "wireless browser independent downloading" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See In re Hirao, 535 F.2d 67, 190 USPQ 15 (CCPA1976) and Kropa v. Robie, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

38. As to point (c), the examiner has edited the mapping of claim 1 and further clarifies the teachings of Rowley and AAPA.

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39. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qing-Yuan Wu whose telephone number is (571) 272-3776. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Qing-Yuan Wu

Examiner

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**WILLIAM THOMSON**  
**SUPERVISORY PATENT EXAMINER**